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10/667,251	09/19/2003	Edward G. Guirlinger	29291.04000	1137

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EXAMINER

SHRIVER II, JAMES A

ART UNIT PAPER NUMBER

3618

DATE MAILED: 01/14/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/667,251

Applicant(s)

GUIRLINGER, EDWARD G.

Examiner

J. Allen Shriver

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 23 December 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-27 is/are pending in the application.
- 4a) Of the above claim(s) 16-21 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-15, 22, 23 and 25-27 is/are rejected.
- 7) ☒ Claim(s) 24 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Election/Restrictions***

1. Claims 16-21 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected invention, there being no allowable generic or linking claim.

Applicant timely traversed the restriction (election) requirement in the reply filed on December 23, 2004. Applicant's election with traverse of claims 16-21 in the reply filed on December 23, 2004 is acknowledged. The traversal is on the ground(s) that there would be no undue burden to prosecute the claims as originally presented. This is not found persuasive because the inventions are distinct from each other because the non-elected inventions has separate utility from the elected invention.

The requirement is still deemed proper and is therefore made FINAL.

### ***Specification***

2. The Specification is objected to because the Brief Description for Figure 16 is missing in the Brief Description of the Drawings section.

### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

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4. **Claim 14 is rejected under 35 U.S.C. 102(b) as being anticipated by Boes et al. (US Patent 5,588,659).** Boes et al. discloses a tool set transportation system (10) comprising a frame component (16), the frame component being a portion of a modular frame; a travel base (20) adapted to support the frame component; and at least one tool module adapted to be removably attached to the frame component (See Fig. 4).

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. **Claims 1-2, 4-5, 8, 10-11, 22-23 and 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Boes et al. (US Patent 5,588,659) in view of McCormick, Jr. (US Patent 3,749,233).** Boes et al. discloses a tool organizer (10) comprising a frame (16); a plurality of wheels (20) attached to the frame; and a tool storage structure (See Fig. 4) supported by the frame, the tool storage structure comprising a plurality of storage panels, each storage panel comprising at least one tool fastener for securing a specific tool (See Fig. 4), and the plurality of storage panels movable with respect to one another between a closed configuration and an open configuration; **[claim 2]** wherein the tool storage structure further comprises a base to which the plurality of storage panels are attached, and a plurality of hinges connecting the plurality of storage panels to the base (See Fig. 4); **[claim 4]** a weight bearing step (94) supported by the frame; **[claim 5]** wherein the tool support panels are disposed vertically (See Fig. 4); **[claim 8]**

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an integral and detachable tool box (74). Boes et al. does not disclose the tool storage structure including a tool indicia associated with each tool fastener. McCormick, Jr. discloses a container for tools wherein the tool storage structure includes a tool indicia (34) associated with each tool fastener. At the time of the invention, it would have been obvious to a person of ordinary skill in this art to provide tool indicia associated with each tool fastener for the tool storage structure disclosed in Boes et al. in view of the teaching of McCormick, Jr. The motivation for doing so would have been to “eliminate all guesswork in selecting the appropriate container pockets” (See column 4, lines 27-28).

Regarding claim 22, Boes et al. discloses a tool organizer (10) comprising a frame (16); a plurality of wheels (20) attached to the frame; and a plurality tool storage structures (See Fig. 4) removably supported by the frame, each tool storage structure comprising a plurality of storage panels, each storage panel comprising at least one tool fastener for securing a specific tool, and the plurality of storage panels movable with respect to one another between a closed configuration and an open configuration; **[claim 23]** wherein the storage panels are disposed vertically. Boes et al. does not disclose the tool storage structure including a tool indicia associated with each tool fastener. McCormick, Jr. discloses a container for tools wherein the tool storage structure includes a tool indicia (34) associated with each tool fastener. At the time of the invention, it would have been obvious to a person of ordinary skill in this art to provide tool indicia associated with each tool fastener for the tool storage structure disclosed in Boes et al. in view of the teaching of McCormick, Jr. The motivation for doing so would have been to “eliminate all guesswork in selecting the appropriate container pockets” (See column 4, lines 27-28).

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**7. Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Boes et al. (US Patent 5,588,659) in view of Souza (US Patent 6,386,559 B1).** Boes et al. discloses the tool set transportation system as set forth above, but does not disclose wherein the travel base is adapted to be fastened to a seat of a passenger vehicle using a seatbelt. Souza discloses a travel base (12) adapted to be fastened to a seat of a passenger vehicle using a seatbelt. At the time of the invention, it would have been obvious to a person of ordinary skill in this art to provide the travel base disclosed in Souza with the tool set transportation system disclosed in Boes et al. The motivation for doing so would have been to allow the tool set to be transported safely in a vehicle to different job sites.

**8. Claims 3, 6-7, 9, 12-13 and 25-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Boes et al. (US Patent 5,588,659) and McCormick, Jr. (US Patent 3,749,233) as applied to claims 1, 10 and 22 above, and further in view of Shipman et al. (US Patent Application 2003/0227148 A1).** The combination of Boes et al. and McCormick, Jr. discloses the tool organizer as set forth above, but does not disclose wherein each storage panel includes a handle and retaining means for securing the plurality of storage panels. Shipman et al. discloses a tool organizer wherein the storage panel includes a handle (82) and retaining means (70,72) for securing the plurality of storage panels. At the time of the invention, it would have been obvious to a person of ordinary skill in this art to provide a handle and retaining means for the storage panels disclosed in Boes et al. in view of the teaching of Shipman et al. The motivation for doing so would have been to allow the storage panel to be carried separately and easily secure the panel to the frame.

Regarding claims 3 and 12, Shipman et al. discloses wherein each storage panel comprises a storage panel sleeve partially covering a rigid frame, and wherein each tool fastener is a pocket formed integrally with the storage panel sleeve.

Regarding claims 6-7 and 13, the combination of Boes et al. and McCormick, Jr. discloses the tool organizer as set forth above, but does not disclose further including an integrated and detachable tool belt/bag, wherein the tool belt includes a plurality of tool fasteners and associated tool indicia. Shipman et al. discloses further including an integrated and detachable tool belt/bag, wherein the tool belt includes a plurality of tool fasteners and associated tool indicia (See Figs. 1-2). At the time of the invention, it would have been obvious to a person of ordinary skill in this art to provide a detachable tool belt/bag having fasteners and associated tool indicia in Boes et al. in view of the teaching of Shipman et al. The motivation for doing so would have been to allow selected tools to be carried on a person.

#### ***Allowable Subject Matter***

9. Claim 24 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

#### ***Conclusion***

10. The prior art made of record in the accompanying PTO Form 892 and not relied upon is considered pertinent to applicant's disclosure.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to J. Allen Shriver whose telephone number is (703) 308-1224. The examiner can normally be reached on Mon-Thurs 7:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris P. Ellis can be reached on (703) 305-0168. Any inquiry of a general nature or relating to the status of this application should be directed to the group receptionist whose telephone number is (703) 308-1113.

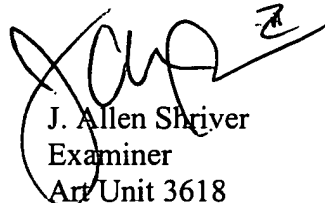
As of May 1, 2003, any response to this action should be mailed to:

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Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Or faxed to: (703) 305-3597 or (703) 305-7687 (for formal communications intended for entry. (703) 746-3852 (for informal communications directly to the Examiner).

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Saturday, January 08, 2005

  
J. Allen Shriver  
Examiner  
Art Unit 3618

JAS